

**DECISION****THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548**

FILE: B-186240

DATE: September 23, 1976

MATTER OF: J. J. Welcome Construction Company

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97980**DIGEST:**

1. GAO has no jurisdiction to rule on request for increase in contract price due to alleged mistake in bid made by contractor in connection with construction contract awarded by Government of American Samoa. While construction project was financed in part by Federal Highway Administration grant funds, Federal Government was not party to contract since Government of American Samoa is not Federal agency within meaning of Federal procurement laws.
2. Claim for increase in contract price due to alleged mistake in bid by contractor of grantee is not cognizable by this Office as GAO does not interfere with functions and responsibilities of grantor agencies in making and administering grants.

The J. J. Welcome Construction Company (Welcome) requests an upward price adjustment in its contract awarded pursuant to a solicitation issued by the Government of American Samoa.

The above solicitation requested bids for a highway construction project which is financed in part with matching funds from the Federal Highway Administration (FHWA), Department of Transportation. Welcome submitted the low bid of \$1,584,368.25. Shortly after bid opening Welcome alleged a mistake in its bid in that it failed to include mobilization costs (costs of shipping equipment from Washington State to American Samoa) of \$290,000. The record indicates that while the Office of the Attorney General of American Samoa was convinced that a mistake had been made and of the amount of the mistake, the FHWA refused to fund the contract at the higher price for two reasons. First, the FHWA contended that the worksheets submitted with Welcome's bid did not establish that mobilization costs had been omitted and, second, possible alteration of the bid bond precluded that figure from being used in determining the total amount of the bid. Award was made to Welcome at its original bid price of \$1,584,368.25. According to Welcome, it accepted the award at the lower price after being informed by officials of the Government of American Samoa that the contract would have to be rebid unless Welcome agreed to accept the award at the lower figure.

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It is Welcome's contention that under the Federal procurement law the Government of American Samoa had authority to correct the error and award the contract to Welcome for the amount intended, \$1,874,368.25. Welcome states that had it known of this authority it would not have accepted the award at the lower price.

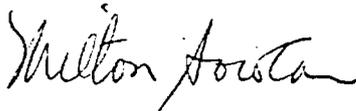
Welcome further states that in light of the FHWA's refusal to furnish the additional matching funds, it is seeking an investigation by this Office as to whether the FHWA should provide the additional matching funds on the basis of the bid price which has been verified as intended bid price. Welcome is of the view that the FHWA should be willing to furnish the matching funds on this basis and allow Welcome to renegotiate the contract with the Government of American Samoa.

Regarding Welcome's contention that under Federal procurement law the Government of American Samoa had authority to correct the error and award the contract to Welcome in the intended amount (\$1,874,368.25), this Office has held on numerous occasions that the Government of American Samoa is not a Federal agency and, therefore, Federal procurement law, including that applicable to alleged mistakes in bids, is not applicable to contracts awarded by American Samoa. See B-183066, February 11, 1975; B-180148, December 13, 1973; and B-173589, September 30, 1971.

With regard to Welcome's request for an upward price adjustment in its contract, our Office is without jurisdiction to consider such a claim since the United States was not a party to the contract. The contract was not made by a Federal agency, but by an entity analogous to a State (see 46 Comp. Gen. 586 (1966)), with financial assistance in the form of a grant from the Federal Highway Administration. Consequently, it is the responsibility of the Department of Transportation to decide whether it will fund an upward adjustment in Welcome's contract. See Luer Packing Company, B-179426, January 21, 1974, 74-1 CPD 17.

Furthermore, it should be noted that while our Office will review the propriety of contract awards made by grantees in furtherance of grant purposes, we will not interfere with the functions and responsibilities of grantor agencies in making and administering grants. See 40 Fed. Reg. 42406 (1975).

In view of the above, our Office must decline to rule on the present matter.

for   
Paul G. Dembling  
General Counsel